

**IN THE HIGH COURT OF JUDICATURE
AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.1475 OF 2006

Deepak Ramchandra Chavriya	...Petitioner
Vs.	
The State of Maharashtra & Ors.	...Respondents
Ms. Smita R. Kadu for the Petitioner	
Ms. P.H.Kantharia, A.P.P for the State	

**CORAM: SHRI J.N.PATEL &
SMT. ROSHAN DALVI, JJ.
DATED: 19TH AUGUST, 2006**

P.C.

1. Rule. Returnable forthwith.
2. Heard learned Counsel for the Petitioner and the learned A.P.P for the State. The Petitioner is convicted for having committed offence punishable under Section 302 of the Indian Penal Code by the District and Sessions Judge, Pune by judgment and order dated 16th April, 2006. The Petitioner was arrested in the case on 24th December, 2000. The Petitioner had applied for furlough before the Deputy Inspector General of Prison, but that application of the Petitioner was rejected on 6th April, 2006. It is the subject

matter of challenge in this Petition.

3. The learned Counsel for the Petitioner submits that the reasons given by the Competent Authority rejecting the application for releasing the Petitioner on furlough is not justifiable and it is on the basis of inference drawn without there being any material to that effect. It is submitted that the mother of the Petitioner is prepared to stand as surety and therefore, the impugned order deserves to be set aside and quashed.
4. The learned A.P.P submitted that the Respondent, the Competent Authority in its order has given specific reason for rejecting the application for grant of furlough that the mother of the Petitioner would not be able to keep control over the Petitioner and that there is likelihood of the Petitioner committing breach of peace in the area and threat to the relatives of the deceased from the Petitioner cannot be ruled out.
5. In addition to this it has been also stated that the Petitioner was arrested in 7 serious cases and therefore the impugned order does not call for any interference.
6. The learned Counsel for the Petitioners states that out of

7 cases in 4 cases the Petitioner is acquitted and in 3 other cases he is on bail under Section 302 of the Indian Penal Code.

7. We find that the reasons given by the Competent Authority rejecting the furlough to the Petitioner are not sufficient enough to deny him his right to go on furlough, at the most the Competent Authority could have imposed strict conditions like marking attendance at police station so that the activities of the Petitioner could be kept in check while he is out on furlough. Therefore, we quash and set aside the impugned order and direct the Respondent, Competent Authority to reconsider the application of the Petitioner for being released on furlough by ignoring the reasons given in the impugned order, which has been quashed and set aside. The Competent Authority may impose additional conditions for releasing the Petitioner on furlough than the usual terms and conditions like making attendance at the Police Station and so on.

8. Rule is made absolute accordingly.

9. The Respondent/Competent Authority to decide the application of the Petitioner within 7 days from the receipt of this order.

10. The learned A.P.P to communicate the order to the Respondent/Competent Authority.

(SMT.ROSHAN DALVI, J.) (SHRI. J.N. PATEL, J.)